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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Diane C. Breidenbach

SERIAL NO.: 10/776,955

FILED: February 11, 2004

FOR: **IMPROVED LIP PRODUCT APPLICATOR**

Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

RESPONSE TO NOTICE OF NON-COMPLIANT AMENDMENT

In Response to the Notice of Non-Compliant Amendment Applicant submits the following:

1. Request for additional one month extension;
2. Check for \$165.00 to cover the balance of the extension fee;
3. Check for \$100.00 to cover extra independent claim;
4. Copy of Amendment submitted May 22, 2007, and supporting documents.

Respectfully submitted,

Thomas A. O'Rourke  
Reg. No.: 27,665  
BODNER & O'ROURKE, L.L.P.  
425 Broadhollow Road  
Melville, NY 11747  
(631)249-7500



CERTIFICATE OF MAILING

I hereby certify that the foregoing Response was mailed by first class mail, postage prepaid, in an envelope addressed to the Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450 on this 14<sup>th</sup> day of June 2007.

  
Thomas A. O'Rourke



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

JUN 18 2007

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,955	02/11/2004	Diane C. Breidenbach		4238

7590

06/08/2007

Thomas A. O'Rourke  
Bodner & O'Rourke LLP  
425 Broadhollow rd. #108  
Melville, NY 11747

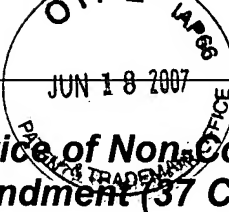
EXAMINER

ART UNIT

PAPER NUMBER

DATE MAILED: 06/08/2007

Please find below and/or attached an Office communication concerning this application or proceeding.



**Notice of Non-Compliant  
Amendment (37 CFR 1.121)**

Application No.

10776955

Examiner

Huynh, Khoa

Applicant(s)

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 29 May 2007 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other \_\_\_\_\_.
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other \_\_\_\_\_.
- ☐ 3. Amendments to the drawings:
- ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other \_\_\_\_\_.
- ☐ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☐ E. Other: \_\_\_\_\_.
- ☒ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):  
Fee due of \$100 for extra independent claim there are 12 not 11

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment, an amendment filed after allowance, or a drawing submission (only). If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

**Extensions of time** are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

**Failure to timely respond** to this notice will result in:

**Abandonment** of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

**Non-entry** of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Nicolle Scrivner

Legal Instruments Examiner (LIE), if applicable

571-272-4381

Telephone No.



Receipt by the United States Patent and Trademark Office is hereby acknowledged of the following

Applicant Breidenbach

Serial No 10/776,955

Filed Feby 11, 2004

For Improved Lip Product Applicator

1) Request for Extension of Time

2) Check for \$60.00

3) Terminal Disclaimer

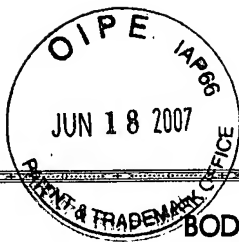
4) Check for \$65.00

5) Request for Continued Examination

6) Check for 395.00

7) Amendment

8) Check for 75.00 for extra claims



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2188

1-1367/260

DATE May 22, 2007

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FOR

Breidenbach

Thomas L O'Rourke

MP

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Thomas O'Rourke

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THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Diane C. Breidenbach  
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P.O. Box 1450  
Alexandria, VA 22313-1450

AMENDMENT

In response to the Office Action dated January 11, 2004,  
the application as follows.

Amendments to claims, begin on page 2 of this paper.

STYLE XPP

PAY TO THE ORDER OF Commissioner of Patents & Trademarks

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1-800-YES-2000

FOR \_\_\_\_\_

MP

DATE May 22, 2007

\$ 75.00

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